

ATTACHMENT B



City of Phoenix

Planning and Development Department

**DENIED AS FILED, CONDITIONAL APPROVAL FOR ALTERNATIVE
ABND 210034**

Your abandonment request was **DENIED AS FILED**, but **CONDITIONALLY APPROVED IN PART** by **Christopher DePerro, Abandonment Hearing Officer**.

This request will NOT be completed until all the stipulations have been met and this request is formally adopted by City Council. It is the **APPLICANT'S RESPONSIBILITY** to ensure that all stipulations are satisfied. **Please contact Maggie Dellow at (602) 256-3487** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations your request will be scheduled for City Council action.

If the stipulations of abandonment are not completed within **two years** from the date of your conditional approval (**your expiration date is July 29, 2023**), this request will then expire. At that time a new submittal will be required along with the required payment for the abandonment process. A one time, **one year** extension can be requested prior to the expiration date, with applicable extension fee due.



City of Phoenix

Planning and Development Department

July 29, 2021

Preliminary Abandonment Staff Report: **ABND 210034**

Project# **05-4228**

Quarter Section: **05-15**

Location:

Southwest Corner 55th Avenue and Elliot Road

Applicant:

Zach Hill; Kimley Horn

Request to abandon:

The 50-foot right-of-way, adjacent 8-foot public utility easement, and adjacent 1-foot vehicular non-access easement for portions of Bullwhip Way and 55th Lane within Tierra Montana Parcel 6 subdivision.

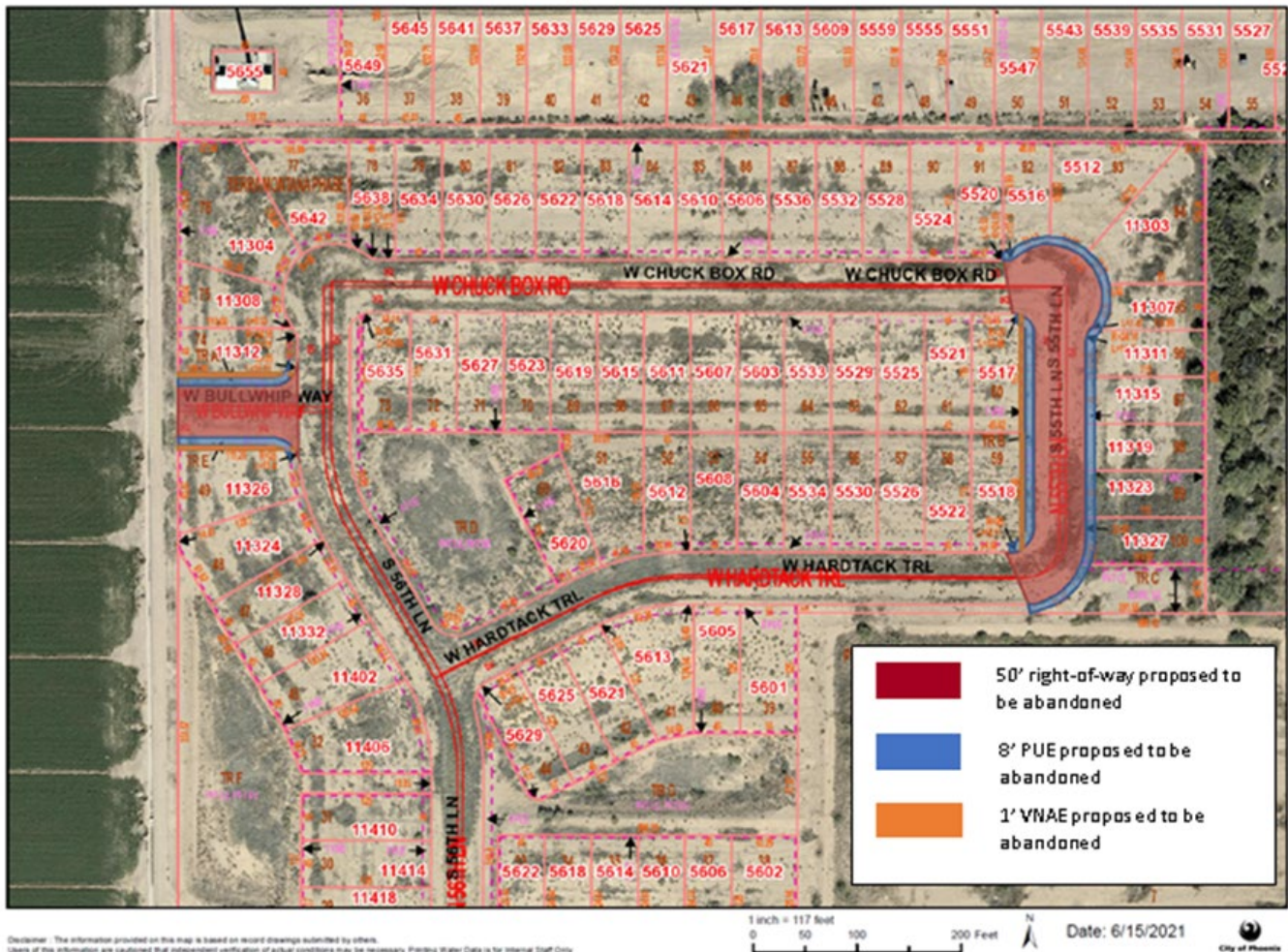
Purpose of request:

The applicant states the final plat was recorded in 2006 and the site was mass graded, however no infrastructure was installed. Proposed development has incorporated additional land and needs new final plat to cover proposed site.

Hearing date:

July 29, 2021

Planning and Development



Hearing Summary

Mr. Christopher DePerro the Abandonment Hearing officer called the Abandonment Hearing to order at 9:30 am on July 29, 2021 and invited staff to introduce themselves.

Ms. Maggie Dellow, the Abandonment Coordinator introduced ABND 210034 by reading the abandonment case into the record by stating the applicant, location, abandonment request, and purpose of the request, as well as City staff research.

Mr. DePerro then started the discussion by asking the applicant if they would like to add any additional comments regarding the abandonment request.

Mr. Zach Hill explained that the purpose of the abandonment is to allow for the reconfiguration of the subdivision and an extension of new lots to the east. Mr. Hill mentioned that the project has already received Preliminary approval and they are working towards final plat approval, but the abandonment must be completed before these approvals.

Ms. Susan Demmitt mentioned that the comment from Street Transportation indicating they could not support the abandonment of Bullwhip Way came as a surprise due to the fact that this project has received Preliminary approval. Ms. Demmitt indicated that they did not believe Bullwhip Way to provide a necessary local street connection.

Ms. Maja Brkovic with the Street Transportation Department responded that the abandonment of Bullwhip Way would contradict the Street Transportation's goals and policies for greater street connections.

Mr. DePerro indicated that this project should not have been given Preliminary approval prior to the Abandonment hearing and conditional approval of the abandonment request. Mr. DePerro also indicated that another appeal was filed to not provide connection to 55th Avenue, but was denied on the basis of block length. Mr. DePerro went on to explain that the abandonment of Bullwhip Way would create the same issue of excessive block length. He indicated that per City Code and per previous appeal denial, he would not be able to approve the abandonment of Bullwhip Way.

Mr. Hill indicated that the Bullwhip Way connection was originally provided in lieu of a required connection at 55th Ave. Mr. Hill explained that in the new proposed configuration of the site, a connection is provided at 55th Ave which he believed would negate the need for Bullwhip Way.

Mr. DePerro explained that the new connection would still result in the project exceeding block length and the Abandonment Hearing was not the appropriate forum for such an approval. This would need to be appealed through the Subdivision Hearing Committee before an abandonment could be approved.

Mr. DePerro provided two options to the applicant: 1) a partial approval of the request with the denial of the Bullwhip Way abandonment, or 2) continuance of the abandonment while the applicant files a technical appeal to allow block length to exceed the maximum limit.

Ms. Demmitt indicated that they would like to move forward with the partial approval of the abandonment request with the denial of the Bullwhip Way abandonment.

Mr. Hill asked to clarify the necessary consideration fee. He explained that they would be rededicating 55th Lane further east as part of the reconfiguration of this subdivision, and that the area of right-of-way would actually be increasing. Given this fact, Mr. Hill was curious if they would still be required to provide a consideration fee, or if the consideration fee could be shown as an offset of the consideration fee. Mr. DePerro indicated that this would likely not be an issue. Mr. DePerro asked that calculations be provided to staff to support this request.

The Hearing Officer denied the request as filed, but conditionally approved the abandonment of the portion of 55th Lane and adjacent PUE and VNAE easements only. The conditional approval does not include the abandonment of Bullwhip Way or adjacent PUE and VNAE easements. That approval is subject to the stipulations of conditional approval in the staff report.

Stipulations of Conditional Approval

The request of abandonment is conditionally approved by the Abandonment Hearing Officer. The following stipulations will need to be met:

1. Either a or b shall be complied with:
 - a. All utilities shall be relocated to locations approved by each affected utility company. All work is to be done by each affected utility company at no expense to the affected utility company. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Planning and Development Department to guarantee the improvements.
 - b. All right-of-way shall be retained as a public utilities easement with 24-hour vehicle maintenance access.
2. Consideration which provides a public benefit to the City is required in accordance with City Code Art. 5, Sec. 31-64 and Ordinance G-5332. Cost for abandoned Right-of-Way adjacent to property not zoned single family residential will be \$500 OR Fair Market Value whichever is greater. Cost for property zoned single family residential is \$1.00 a square foot for the first 500 square feet, \$0.10 a square foot thereafter; OR Fair Market Value at the option of the Planning and Development Director or designee. The applicant shall submit calculation and fee to Planning and Development Department. The applicant shall request a selection of approved appraisers from the current list maintained by the Real Estate division of the Finance Department.
3. Final approval of this abandonment shall run concurrently with the plat.
4. All stipulations must be completed within two years from the Abandonment Hearing Officer's decision.

This conditional approval has been reviewed and approved by the Abandonment Hearing Officer.

Hearing Officer Signature:  _____ Date: 10/29/21

REPORT SUBMITTED BY: Maggie Dellow, Abandonment Coordinator

cc: Zach Hill; Kimley Horn, Applicant/Representative
Christopher DePerro, Abandonment Hearing Officer